

## **REMARKS**

### **Status of the Claims**

Claims 21-25 and 27-38 are presented. No claims are amended. No claims are cancelled. No new claims are added.

No new matter has been introduced.

### **Summary of the Invention as Claimed**

The pending system claims are drawn to a foam-producing and dispensing system comprising a manually-operated foam dispenser containing a foamable, sun protection water-in-oil emulsion. The water-in-oil emulsion comprises (a) at least one polyol poly-12-hydroxystearate, preferably polyglycerol poly-12-hydroxystearate (see claim 23); (b) an oil component, preferably a dialkyl carbonate (see claim 25); (c) at least one surfactant; (d) a UV protection factor; and (e) water. Another aspect of the invention as claimed is drawn to a foamable sun protection water-in-oil emulsion, comprising the components (a) – (e) as above.

### **Rejections under 35 U.S.C. § 103(a)**

Claims 34-38 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Polovsky et al. (US 5,384,334; “Polovsky”) in view of Ansmann et al. (US 6,280,712; “Ansmann”).

Polovsky discloses personal care compositions comprising alkoxylated alkyl glucoside quaternary salts that may be formulated as emulsions. Additives may include sulfosuccinates, cocamidopropyl betaine and sunscreen components. It is respectfully emphasized that Polovsky’s disclosure is directed to alkoxylated alkyl glucosides having **quaternary** nitrogen-containing ether substituents, which are **cationic** surfactants, as distinguished from alkoxylated alkyl glucosides, which are **nonionic** surfactants. Also, the disclosed salts are derived from monomeric alkyl glucosides, not polyglucosides or oligoglucosides.

Polovsky makes no reference to poly- or oligo-glucosides. Thus Polovsky's quaternary salts possess very different properties from those of the nonionic oligomeric alkyl polyglucosides (APGs). Therefore, Polovsky's disclosure is unrelated to that of Ansmann.

As correctly stated by the Examiner, Polovsky also does not disclose polyol poly-12-hydroxystearates or dialkyl carbonates. Also the % weight ranges are not disclosed. To overcome these latter deficiencies, the Examiner joined Ansmann.

Ansmann discloses a process for enhancing the effectiveness of sunscreen UV filters by solubilizing/dispersing the UV filters in dialkyl carbonates. The compositions may contain surfactants such as dialkylsulfosuccinates and cocamidopropyl betaine. In addition, polyol esters of poly-12-hydroxystearate and alkyl oligoglucosides may be present. The Examiner stated that Ansmann teaches the equivalence of polyglycerol poly-12-hydroxystearates and alkyl glucosides. With respect, this is not the case. Ansmann does state that the preferred consistency factors of his compositions are fatty alcohols combined with alkyl oligoglucosides and/or polyglycerol poly-12-hydroxystearates (column 6, lines 13-18), but this does not equate the latter two compounds. Even if it did (which the undersigned maintains that it does not), alkyl oligoglucosides are still 3 steps removed from the quaternary alkoxylated alkyl glucosides of Polovsky, the 3 steps involving functionalization with a quaternary ammonium ether group, alkoxylation, and oligomerization of the glucoside.

Furthermore, Ansmann does reference "alkyl glucosides", with respect to partial esters of C6-22 fatty acids and alkyl glucosides (column 4, line 66-column 5, line 5), and again as hydrotropes, lower alkyl (C1-C8) glucosides (column 6, line 50- column 7, line 3), but these are not in regard to their use as nonionic emulsifiers. Applicants respectfully submit, therefore, that the deficiencies of Polovsky cannot be cured by joining Ansmann. Therefore the obviousness rejection should be withdrawn.

Claims 21-25 and 27-33 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Polovsky in view of Ansmann, further in view of Van der Heijden et al. (WO 00/78629; "Van der Heijden").

As described above, the addition of Ansmann to Polovsky fails to cure the deficiencies of the latter. Further addition of Van der Heijden also fails to cure the stated deficiencies. Therefore the obviousness rejection should be withdrawn.

### **Conclusion**

In view of the above remarks, applicants believe that the pending claims are in condition for allowance. The Examiner is respectfully requested to reconsider, withdraw the rejections and allow the claims.

If any additional fees are required in support of this application, authorization is granted to charge our Deposit Account No. 50-1943.

Respectfully submitted,

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